

REMARKS/ARGUMENTS

Initially, Applicants would like to express their appreciation to the Examiner for the detailed Official Action provided, for acknowledgement that the drawings are acceptable, and for the acknowledgement of Applicants' claim for priority and receipt of the certified copy of the priority document in the Official Action. Applicants also wish to thank the Examiner for considering the materials cited in the Information Disclosure Statements filed in the present application on November 7, 2006, and December 27, 2006, as evidenced by the return of the signed PTO-1449 Forms attached to the above-noted Information Disclosure Statements.

Claims 1-7 are rejected under 35 U.S.C. §103(a) as being unpatentable over McGINNIS (U.S. Patent No. 7,177,989 B1). The only independent claim that the Official Action provides a detailed analysis for is independent claim 1. However, the Official Action states that independent claims 5, 6, and 7, which are directed to a related data processor accessing a memory card, a control method of a memory card, and a setting method of a memory card, respectively, are rejected as being unpatentable over McGINNIS for the same reasoning as that expressed for independent claim 1. Accordingly, Applicants' remarks and arguments provided below equally apply to independent claims 1, 5, 6, and 7.

With regard to independent claim 1, the Official Action asserts McGINNIS' Figure 1 as teaching a memory (13), and a controller (11 & 12) that provides the host interface between the memory (13) and a data processor. The Official Action further asserts that McGINNIS inherently must have a storage section that stores specified management information since the retry number must be stored somewhere.

Upon review, the asserted portions of McGINNIS' Figure 1 appear to teach the use of a core logic, memory controller and retry mechanism that control the operation of a memory.

However, as the Official Action has explicitly acknowledged, McGINNIS does not disclose these components arranged on a memory card. Instead, the Official Action asserts Official Notice that it is notoriously well known to implement many forms of memory as cards. The Official Action further asserts Official Notice that it is notoriously well known to use nonvolatile memory.

Applicants submit that their claimed specialized memory card is uniquely configured to include the claimed host interface, controller, and storage section that stores specified management information, in addition to a nonvolatile memory and is clearly not well known in the art. Accordingly, Applicants respectfully submit Official Notice of their specialized memory card is inappropriate and that either the rejection should be withdrawn or the Official Notice should be replaced with a relevant prior art reference.

The Official Action further asserts column 2, line 58, through column 3, line 15, as teaching that McGINNIS' management information includes retry setting information which specifies whether a retry function is executed or not when an error occurs during an operation of reading data to the memory. Upon review, the asserted portion of McGINNIS appears to disclose that based upon a requested memory transaction, a retry mechanism (11) determines whether another memory transaction should be accepted dependent on various factors including whether a memory read retry procedure is in progress. In this regard, McGINNIS' retry procedure appears to automatically retry a read transaction a predetermined number of times based upon a pre-established design choice. Thus, although McGINNIS does disclose an automatic retry procedure, Applicants respectfully submit that McGINNIS fails to teach the storage and use of management information which conditionally specifies whether a retry function is executed or not when an error occurs, as claimed.

The Official Action acknowledges that McGINNIS uses his retry function for a read operation and fails to disclose its use for a write operation. In attempting to make up for this failure, the Official Action asserts Official Notice that it is notoriously well known to incorporate such read error handling into write error handling systems. Applicants submit that their claimed specialized writing process is unique since it involves writing specific management information into a specific storage on a specifically configured memory card and is clearly not well known in the art. Accordingly, Applicants respectfully submit Official Notice of their specialized writing function is inappropriate and that either the rejection should be withdrawn or the Official Notice should be replaced with a relevant prior art reference.

The Examiner asserts column 2, lines 19-38, of McGINNIS as teaching that his controller refers to the retry setting information in a data reading operation, and controls the data writing operation so as to disable the retry function in the event of an error in the data writing operation when the retry setting information indicates disabling the retry function, or to enable the retry function in the event of an error in the data reading operation when the retry setting information indicates enabling of the retry function. Upon review, the asserted portion of McGINNIS appears to disclose that an automatic second (retry) memory read attempt is made after a previous read attempt results in invalid data and that the retry attempt stops when it reaches a designer's choice preset number of attempts threshold, regardless of whether the read data is valid or not. McGINNIS also appears to teach that either the setting of a bit or the use of a counter or register may be used to determine when the preset number of retry attempts has been reached. From this review, Applicants submit that it is clear that McGINNIS fails to teach the conditional disabling or enabling of a data writing retry function based upon stored management retry setting information.

From the above discussion, Applicants respectfully submit that McGINNIS fails to disclose several important features of independent claim 1. The Official Action attempts to remedy some of these failures of McGINNIS by taking Official Notice of several claimed features. A review of M.P.E.P. Section 2144.03 indicates that Official Notice without documentary evidence is permissible only in some circumstances where the asserted common knowledge is capable of instant and unquestionable demonstration as being well-known. Additionally, this M.P.E.P. section specifically states that when Applicants point out why the noticed facts are not common knowledge, as Applicants have done above, then the Examiner must provide documentary evidence in the next Official Action if the rejection is to be maintained. See also 37 C.F.R. § 1.104(d)(2). In this case, the need for appropriate documentary evidence is exceptionally important since the Official Notice is related to several key aspects of Applicants' claims including the basic fact that Applicants are claiming a specifically configured memory card, for which no documentary evidence has been provided.

As a result, Applicants respectfully request that the rejection of claims 1-7 as being unpatentable over McGINNIS be withdrawn. Alternatively, Applicants request that the next Official Action provide a rejection with sufficient documentary evidence to establish a prima facie case of obviousness. Further, since such a rejection will likely result in new issues and constitute a new ground of rejection, Applicants request that an Official Action containing such a rejection be made non-final per M.P.E.P. Section 2143 D.

In addition to the reasons to withdraw the rejection stated above, Applicants provide additional remarks and arguments below directed at dependent claims 2-4.

With regard to dependent claim 2, the Official Action points to McGINNIS' column 2, lines 19-38, for disclosing the claim features, including that the management information

includes characteristic information that is specific to the memory card. However, Applicants submit that a review of this section fails to disclose any reference to management information including characteristic information specific to a memory card, since McGINNIS does not disclose a memory card.

With regard to dependent claim 3, the Official Action points to McGINNIS' column 3, lines 36-43, for disclosing the claim features, including that the characteristic information includes the maximum required time for data writing to the memory card. However, Applicants submit that a review of this section fails to disclose any reference to a maximum required time for data writing, instead making a general reference to the fact that the system does not know how long it will take for a transaction to occur. Additionally, McGINNIS fails to disclose a memory card.

With respect to dependent claim 4, the Official Action once again takes Official Notice that it is notoriously well known to monitor and store retry frequencies in memories. However, claim 4, being dependent upon claim 2, requires that the characteristic information that is specific to the memory card include information regarding a frequency of the retry process occurring in the memory card. Thus, Applicants' claimed retry process frequency information is unique since it is specifically linked to the particular memory card. Accordingly, Applicants respectfully submit that taking Official Notice of their specialized memory card containing specifically linked retry process frequency information is inappropriate and that either the rejection should be withdrawn or the Official Notice should be replaced with a relevant prior art reference.

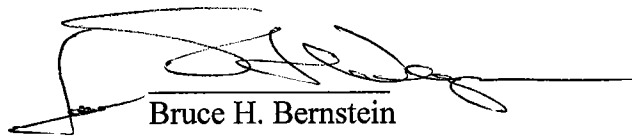
SUMMARY

From the arguments and remarks provided above, Applicants submit that all of the pending claims in the present application are patentable over the reference cited in the Official Action. Accordingly, reconsideration of the outstanding Official Action is respectfully requested and an indication of allowance of claims 1-7 is now believed to be appropriate.

Alternatively, Applicants request that the next Official Action provide a rejection with sufficient documentary evidence to establish a prima facie case of obviousness. Further, since such a rejection will likely result in new issues and constitute a new ground of rejection, Applicants request that an Official Action containing such a rejection be made non-final.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
Tetsushi KASAHARA et al.



Bruce H. Bernstein
Reg. No. 29027

Steven Wegman
Reg. No. 31,438

September 16, 2008
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191